

TENTATIVE FINDINGS RESPONSE COVERSHEET

Name/organisation:

ENVIRONMENTAL DEFENDERS OFFICE
(SA) INC.

This name will be published with your comments.

These details will not be published:

Address LEVEL 1, 182 VICTORIA SQUARE
ADELAIDE
Telephone 8359 2222
Email melissa.ballantyne@edo.org.au

DECLARATION

1. I am:

- the person named as the author of this document; or
- authorised on behalf of the organisation named to submit this document, and the information and/or views expressed in this document are true and correct to the best of my knowledge and belief.

2. I believe this document is suitable for publication on the internet.

3. I understand that the Nuclear Fuel Cycle Royal Commission may contact me should it require further information.

Signed M. Ballantyne

Date 17/3/16



investigating opportunities and risks for South Australia

17 March 2016

Re: Royal Commission into the Nuclear Fuel Cycle – Tentative Findings

The Environmental Defenders Office (SA) Inc (“the EDO”) is an independent community legal centre with over twenty years of experience specialising in environmental and planning law. EDO functions include legal advice and representation, law reform and policy work and community legal education.

We appreciate the opportunity to provide a submission as a result of the release of the Tentative Findings document (the TFD). We note that responses are sought as to whether community members agree or disagree with a Tentative Finding, why, and the evidence in support of that position. Our comments will focus on the findings relating to a high level nuclear waste storage facility.

KEY RECOMMENDATION

Generally we are concerned that the TFD contains many speculative statements, guesses and assumptions and is therefore not a useful document. The TFD is deficient in fully setting out the costs and risks of such a proposal. In our view a full assessment of the risks has not been undertaken. This is very difficult to do as the timeframes under consideration span many thousands of years and therefore there are many unknown political, economic, social and environmental risks and changes that will occur during this time. Some of the inevitable economic losses to industries such as tourism, wine, horticulture, agriculture and fishing together with the security and financial impacts of one or more nuclear “incidents” in the transport, interim storage or permanent storage cycles are not fully dealt with. In addition, whilst monetary amounts are assigned in relation to benefits the same has not occurred with the risks.

Recommendation;

The management of high level waste must be undertaken by the entire international community. Any decision should not be South Australia’s alone as the risks and uncertainties are too great.

REGULATION

If a waste storage facility is considered for South Australia the regulator must be entirely independent of government. The EDO would not support regulation by, for example, the

Department of State Development (DSD). There is an 'inherent conflict of interest if a Department such as DSD is the regulator as they would be the decision maker as well as the de facto environmental regulator. This issue of regulatory capture does not assist with transparency and community confidence in the regulatory system.

Equally important is that regulation must be robust, transparent and best practice. The key driver should be safety and this must not be compromised by alleged efficiency savings in the regulatory process. Any waste storage facility would require substantial new legislation, together with amendment or repeal of the *Nuclear Waste Storage Facility (Prohibition) 2000 Act* (the Act).

SOCIAL AND COMMUNITY CONSENT

In our view a serious problem is that the discussion in the TFD indicates a predestined outcome namely obtaining rather than seeking consent. Nevertheless we are of the view that social and community consent is a very important issue and it must be obtained before there can be a waste storage facility in South Australia. However because of deficiencies in the risk/benefit analysis outlined above the community is at risk of not having full knowledge of these matters and therefore there can't be informed consent or rejection.

In relation to consultation generally we make the following points;

- a. For such a risky proposal consultation requirements should be at the higher end of the public participation spectrum, as defined by the International Association for Public Participation. The IAPP spectrum ranges from informing which aims to "provide the public with balanced and objective information to assist them in understanding the problem, alternatives, opportunities and/or solutions" through consulting, involving, collaborating and empowering which aims "to place final decision making in the hands of the public".
- b. how is consent defined? Point 105 of the TFD mentions ' what ought to constitute consent .. will vary depending on what is proposed...". Further along it is specifically stated that 'unanimity is not required".
- c. who should be consulted. In our view this is a national issue and the community beyond South Australia should be consulted
- d. consultation should cover more than the specific issue of nuclear matters to encompass our nation's future energy mix . There must be extensive information, education and engagement of the community in relation to these matters.
- e. consent is difficult to achieve and is linked to public trust in the government, long term involvement of the organisation constructing the site with the community and the ability to withdraw.

We note that the South Australian Government has now introduced a Bill that would abolish an existing ban on spending public money to foster discussion about nuclear waste storage options. The *Nuclear Waste Storage Facility (Prohibition) (Public Money) Amendment Bill 2016* would amend the Act which prohibits the establishment of nuclear waste storage facilities in the state. It would repeal section 13 of the Act which says public money must not be spent on "encouraging or financing" an activity associated with the construction of a nuclear waste storage facility in the state. We do not support this Bill as it gives the "green light" to expenditure of public monies on encouraging a certain position. What is needed at this point is proper and extensive community consultation.

Please advise if you require clarification on any of the issues raised in this submission.

Yours faithfully

A handwritten signature in cursive script that reads "mBallantyne".

Melissa Ballantyne
Coordinator/Solicitor
Environmental Defenders Office (SA) Inc.